

Inside these pages, there is  
some stuff to read.

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# Quid Novi

Faculty of Law of McGill University / Faculté de Droit de l'Université McGill  
le 30 novembre 1999 - Vol. 20, No. 11 - November 30, 1999

## Taking It On the Chin: Tory's

ROBERT A.J. LECKEY LLB II

Everyone - rather, those who care about the fortunes of the downtown Toronto firms - was stunned last week by front-page stories that Tory Haythe had effectively fired Thomas Haythe on allegations of sexual harassment. Tory Haythe - soon to be renamed, obviously - is the cross-border result of a recent merger between Toronto's Tory Tory DesLauriers & Binnington and New York City's Haythe & Curley.

The alleged incident occurred as part of a celebration on November 17 in honour of the merger. It involved a number of lawyers at the firm, although the papers aren't printing details and I haven't had the nerve to email my friends at Tory's for dirt. Given my own association with a competing downtown firm, I imagine they'd delete, unread, any email from me in the next week. People are speculating it must have been outrageous.

If there is truth behind the mysterious allegations, this is serious stuff. The Globe and Mail reports that the lawyers are deeply upset.

It's hard to know whether Tory's competitors at King and Bay are rubbing their hands spitefully or wondering when something like that is going to blow up on them. Probably a bit of both.

At the same time, Tory's is coming out of this looking as good as could be expected, for the moment. The Toronto people - around 225 of the combined firm's 300 lawyers are in the firm's office at Bay and Wellington - acted quickly. They immediately hired a human rights

lawyer. They took decisive action and didn't try to cover it up. Karen Malatest, a 17-year veteran, was quoted in The Globe on the prompt action taken against Haythe: "on the plus side, I am so proud to be part of this firm." These are smart people. Now they're just riding out the media interest. It may not take long.

After all, it isn't sexual harassment that scandalizes people. We know that people are feeble and that things go horribly wrong in relationships. Sexual harassment is obviously wrong, but it's complicity and denial by institutions such as companies, schools, and the church that make the big waves. The blue chip clients who pick Tory's because it has some of the best lawyers in the country are not going to take their business elsewhere. Besides, given the conflict of interest concerns for big corporate deals, where every party has a different law firm, there aren't that many serious options on Bay Street. There's a chance Tory's will continue, somewhat bruised, but going down in history as a textbook example of how to react to a disaster.

Of course, there are alternatives. It's hard to see Haythe going away quietly on his "medical leave" with no severance. He'll likely sue. If he does, imagine the impact that will have on Toronto-New York relations: two months into a merger, the Toronto group firing the man who built the New York operation. It could be internecine war. A lot may depend on the nature of the mysterious allegations. We'll have to wait and see.

The name Tory Haythe is hazily familiar to a number of us because they sponsored our last free Coffee Haus (recently reviewed in the

December 6, 1989

## 10 years after

KAREN LAJOIE LLBII

Fourteen young engineering students, separated from their male colleagues at gunpoint, are brutally slaughtered because they are women.

Eight more women and four men are injured in the rampage, shot by a man enraged by women taking "his place" in a professional school.

I had been gone from my hometown of Montreal less than six months at the time. I remember sitting numbed before the television in my new home in Yellowknife, mesmerized by the ongoing Newsworld coverage of this unfathomable event. Shooting rampages happened elsewhere, in big American cities. Not in Canada. Not in Montreal.

I remember watching police spokesman Pierre Leclair pull up at the Ecole Polytechnique that night. He brushed past the reporters, vowing to come back out and give a statement as soon as police had a handle on the chaotic situation inside. Although we waited hours to hear from him, he never did come back out. Instead, he'd found his daughter Maryse murdered inside. She was the gunman's last victim before he turned his weapon on himself.

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# Bridget Jones and Her White Knight

SALIM A. NAKHJAVANI, BCL III

I simply cannot comprehend  
Why fame must so endure;  
And so my quill, arise! defend  
Ms. Bridget, Epicure.

In recent times, we were enthrall'd:  
Her charm, her tortes divine!  
Her wit and grace, they never gall'd,  
Nor did her taste for wine.

But last week (cruel adversity!)  
Saw a nasty rebuke most audacious,  
By someone with a proclivity  
For *ad feminems* extremely fallacious.

The "psychiatrist's notes" in the Quid  
of last week  
Evoked some weak, tawdry whore.  
And this, under guise of defending the  
meek –  
The hopeless Mr. J. Crashing Bore.

Or perhaps the *faux* doctor, a certain  
Ms. G.,  
Longed for Simon, Adonis of men,  
And in an act (shameless!) of... jealousy  
She unsheathed her cold poison pen.

O Bridget, dear Bridget, you are in for a  
treat!

In her ranting Ms. G. is to fail.  
For in a *deus ex machina* twist o-so-sweet,  
The arm of the law will prevail.

For Ms. G. now faces a *mise en demeure*  
In discussing her notes, don't you  
think?

For 'twixt doctor and patient, 'twixt  
Bridget and her,  
There exists a most *privileged* link.

## The one thing:

LAWNA HURL LAW I

The one thing that has consistently bothered me about using violence as a way of getting famous is that it works. People remember the name of those who do the killing. Are you more likely to remember the names of the two boys who shot so many in Littleton, Colorado or one of the victims. As a result... I would ask that everyone look at the names below and choose at least one to remember and everytime you think of the name of the individual who took a life on December 6, 1989, think of the name of someone who deserves to be remembered, those listed below.

Sonia Pelletier, 23

Michèle Richard, 21

Hélène Colgan, 23

Nathalie Croteau, 23

Annie Turcotte, 21

Maryse Leclair, 23

Barbara Daigneault, 22

Anne-Marie Edward, 21

Annie St-Arneault, 23

Maud Haviernick, 29

Geneviève Bergeron, 21

Barbara Maria Klueznick, 31

Anne-Marie Lemay, 27

Maryse Laganière, 25

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# Thoughts on December 6, 1989

When the Montreal Massacre occurred, I was preparing for high school Christmas examinations. Unfortunately, I must admit that I was neither particularly aware of what had happened in Montreal, nor a proud feminist at 15. Ten years later, however, as I prepare for yet more Christmas examinations, I am very aware of what occurred at the Ecole Polytechnique on December 6th, 1989, and am no longer afraid or hesitant to say that I am a feminist.

While December 6th evokes a whirlwind of emotions, I have found, sadly, that reluctance is one of them. Reluctance, because I will once again be disappointed and hurt by the reactions of some of my peers — individuals whom I otherwise believe to be thoughtful, intelligent, and sensitive.

Despite everything that one reads (even in law school) and hears about violence against women, it is difficult for me to believe that some individuals can still claim that the incident at the Ecole Polytechnique was an isolated incident & that feminists and women's groups "exaggerate" its significance.

Of particular concern to me are claims that in asking people to remember December 6th & in drawing attention to the continued existence of violence against women and the persistence of inequality & injustice, women's groups, and "feminists", are in some way "selfish", or unwilling to recognize other situations of injustice or inequality. I'm afraid that I fail to follow the logic of these statements. Why is it incomprehensible that in seeking gender equality, feminists can also belong to the larger equality-seeking community?

This appears to be an incredibly inflexible and constrained conception of community and the ability of individuals to identify with the goals of different groups. Is it so difficult to imagine that someone might have loyalties to more than one cause, or be able to identify and sympathize with the objectives of more than one group? I often wonder if these accusations of selfishness, are used, not to draw attention to these other situations of injustice, equally deserving of attention and action, but rather to distract individuals from situations of disadvantage, or even to overwhelm people with the devastating amount of inequality and injustice in society, thereby fostering an environment of inactivity and helplessness.

In an institution of individuals who are presumably quite adept at multi-tasking (the "average" law student's day of doing parts of an obligations summary, writing a business associations assignment, and participating in a tax study group, constitutes multi-tasking), it would seem obvious that in asking people to think about the issues surrounding December 6th, feminists are not asking them to forget everything else. Think of December 6th as an opportunity to multi-task, and more importantly, as an opportunity to reflect on the 14 women who were murdered 10 years ago & women who continue to be subjected to violence.

---

Where were you ten years ago — Or — How I became a feminist

Ten years ago, I would not have called myself a feminist. It is not that I did not know about women's economic, social and political inequality. It is not that I did not know that 3 out of 4 women are sexually abused, or that women are more likely to die old, alone and poor than men, or that women did more of the housework than men, or that women did not always have access to abortions, or that women made less money than men and had fewer promotions, or that women suffered physical violence at the hands of their loved ones or strangers. But these things simply did not apply to me. I always did well in school, I had solidly middle class parents that supported me, and I knew I was just as clever as any male I would ever encounter. Feminists were people who made a lot of noise, and drove away cute boys. And most importantly, gender inequality was something that happened to other women.

So there I was on December 6th 1989, in my safe little world, where smart girls went to university, studied hard and grew up to do whatever they wanted. That day fourteen other women — women just a little older than me — who were going to university, studying hard and expecting to grow up to do whatever they wanted — were singled out in a classroom, and murdered because they were women.

Ten years later I have very vivid memories of December 6th 1989. I knew five people who lived in Montreal in 1989, none of whom attended the Ecole Polytechnique. I remember having a guilty sense of relief that I did not know anyone who was murdered that day. I also remember students at U.B.C. walking around in that kind of excited way that people get during an ice-storm, or a flood, or some other natural disaster that doesn't really touch our lives.

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# F\*\*\*ING NEGATIVITY AND HATE, DAMMIT

ALLEN MENDELSON BCL III

In light of last week's debacle of the Quid and its editorial policy and BJ on the couch (a piece which I quite liked, by the way), I thought I would like to write something that was as negative as possible, just to see what the Quid would do. I have every faith that my dear friend and editorial genius Chris Main will run this unedited, despite the really negative tone, the lack of any happy-go-lucky quality whatsoever, and the fact that it's laced with obscenities. I hope this helps you prove your point, Chris, that the Quid is "a place to discuss and debate pretty much any issue to your heart's content." (Chris Main Editorial, Quid Vol. 20, No. 10) I invite all Quid readers to discuss and debate what I write here.

Now as most of you know, I'm really not a negative guy. I have trouble getting pissed at anyone. I'm almost always in a good mood. But since the theft of my wallet, a tinge of anger has permeated my being. I've allowed it to fester in order to write this article. So here's what I really fucking hate, in no particular order:

I hate people who force themselves onto the Métro when people (like me) are trying to get off. Relax, assholes, the Métro's not going anywhere until you get on.

I hate that I don't have a freezer that defrosts itself. It's like the fuckin' Arctic in there, and I'm down to space for an ice cube tray and the remnants of a bag of frozen peas..

I hate the smell of olives. I can't go into La Vieille Europe anymore because of the smell of the olive bar, and that pisses me off, because now I can't get a nice dry karnatzel or strange beverages you don't find anywhere else.

I hate people with laptops sitting next to me in class who go click-clack-click-clack on the keyboard so I can't hear a fucking word the Prof is saying.

I hate the lack of Top Ten lists in the Quid this year- they're so entertaining and easy to read.

I hate that Télétoon shows the same episode of *The Simpsons* two hours apart every night. Why can't they show different episodes so I can procrastinate more?

I hate the fact that I still get really large zits. I'm 31 years old, dammit, puberty's supposed to be over.

I hate when Windows tells you you've preformed an illegal operation and will shut down the program, even though all you did was click "save".

I hate *Touched Like an Angel*. Why the hell do people watch that show?

I hate all McGill Intramural referees. I hate the fact that even though I hate them, I still try to suck up to them when I'm captain by thanking them at the end of every game for a game well-called, even though they couldn't call a fair game if their lives depended on it, especially when you're playing a team of guys from Athletics.

I hate throwing up, especially when it comes out of your nose (although I admittedly like the feeling *after* I've thrown up, especially when I'm drunk - I feel so ALIVE)

I hate country music.

I hate stepping in dog shit, especially when I'm wearing running shoes with small, deep grooves that the shit just won't come

out of, no matter how hard you scrub and clean. Even worse, I hate stepping on those stupid things that fall from the tree around OCDH that *smell* like shit. What the hell are those things?

I hate tax with Prof. Huot.

I hate the scum who stole my wallet.

I hate the commercialization of Christmas, especially the fact that Christmas ads start in the middle of November and that Christmas seems to be about merchandise and sales. It's about the birth of Jesus and peace and love and kindness, dammit.

I hate going to the Molson Centre for a hockey game. The Canadiens suck (their recent three game winning streak notwithstanding), the place is like a giant cavernous warehouse with expensive beer and cigarette smoke, and there is not a drop of atmosphere. Wherefore art thou, Forum ghosts of old?

I hate writing papers for courses I have no interest in. I hate myself for being a lazy bastard who leaves those papers 'til the last minute, forcing another all-nighter.

I hate cleaning, but even worse, I hate insensitive assholes who don't clean up after themselves and leave it to others to do.

Well that about wraps it up. I seemed to have run out of hate for today, and the Quid deadline is rapidly approaching (I hate deadlines). I actually quite enjoyed writing this article, so I'm not sure if that runs contrary to the spirit of the whole thing. Look forward to my future columns, What I Love and What I'm Indifferent About.

Goodbye for the year and happy  
millenium madness from the QUID



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## FOCUS

### Lawyers leave theater of the courtroom for TV screen

BY LINDA DEUTSCH

LOS ANGELES (AP) - The most talkative lawyers in the land are vacating the staid theater of the courtroom for the more glamorous arena of television, and it's all O.J. Simpson's fault.

The arrival of camera coverage in Simpson's 1994 murder trial heralded a new age of law as TV entertainment and created an instant industry of legal commentators.

When the trial ended, the talking went on, and now several of the most celebrated commentators are making TV a large part of their professional lives.

Lawyers Greta Van Susteren and Roger Cossack of CNN's "Burden of Proof" have given up their law practices to practice TV. Johnnie Cochran, of Simpson courtroom fame, juggles a law practice and business enterprises with a full-time show for Court TV.

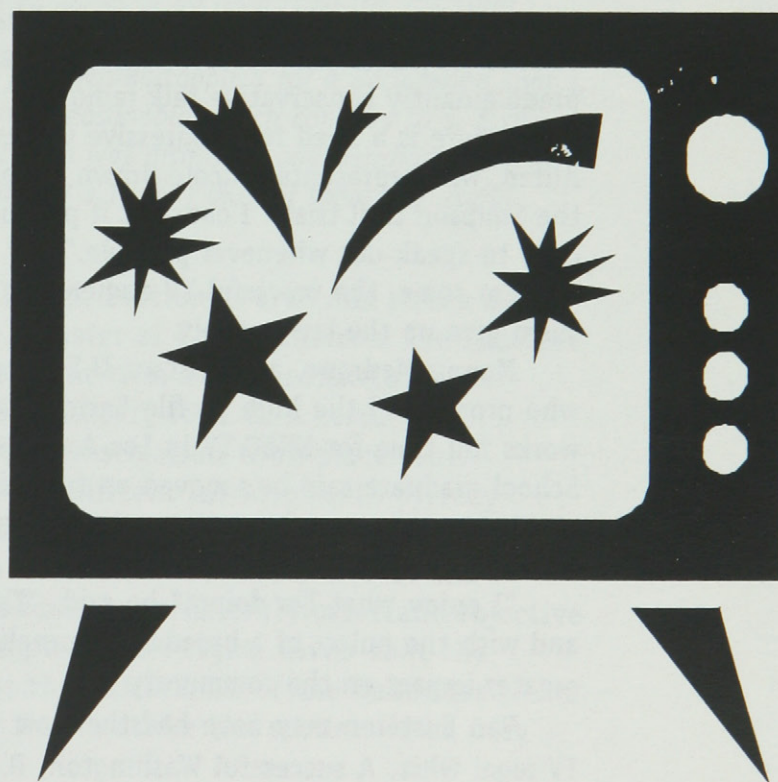
The Court TV network, founded shortly before the Simpson extravaganza, hit its peak during the trial and has parlayed the interest into several popular shows including the nightly "Prime Time Justice."

Leslie Abramson, a tenacious defender of such cases as the Menendez brothers, has a contract with Court TV to appear on "Prime

Time Justice" and other shows, but she is openly seeking her own permanent spot on TV.

Although Abramson says flippantly, "I do it for the money," she acknowledges her overriding interest is to bring the defense point of view to TV.

"It's a very powerful place," she said. "You have an impact on public opinion. You have a



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## Lawyers on TV

chance to change things, and that's why it's so dangerous in the wrong hands."

Abramson seized the chance to guest host the "Rivera Live" show for a week - a show she says she would never appear on when host Geraldo Rivera was in charge because of his anti-defense views.

"The bias of the media is toward the government and most of these shows have a pro-prosecution agenda," she said. "Who's going to be pro-criminal?"

Gerry Spence, who had his own show for a while, appears on talk shows because, he says, "My mother wanted me to be a preacher, and I have an agenda. I'm trying to preach the gospel of freedom to ordinary people."

Incidentally, his appearances do seem to boost the sales of his many books on the law. His latest to be published this month? "O.J.: The Last Word."

Spence, who made his name in high-profile trials such as the Karen Silkwood case and the Imelda Marcos trial, continues to practice law, teaches young lawyers and writes.

But TV lures him back.

"It gives you the opportunity to talk to thousands of people at a time," he says. "In court, you only get to speak to 12 people at a time."

Gloria Allred, a celebrity lawyer long before the Simpson case, has her own KABC radio show and has done some TV commentary. She said she provides a liberal, feminist voice on predominantly conservative talk radio.

"There is a need for progressive voices in radio," says Allred, who represented Nicole Brown Simpson's family during the Simpson civil trial. "I consider it part of my professional duty to speak out whenever possible."

For some, the powerful TV audience is enough to make them give up the law entirely.

Manny Medrano, an assistant U.S. Attorney for 13 years who prosecuted the high profile Enrique Camarena case, now works full time for KNBC-TV in Los Angeles. The Harvard Law School graduate said he's moved on from doing only legal commentary to covering news assignments such as floods and fires.

"I enjoy what I'm doing," he said. "The hours are better, and with the pulpit of a broadcast journalist, I have an even greater impact on the community."

Van Susteren may have had the most meteoric rise of any TV legal whiz. A successful Washington, D.C., trial lawyer, she was snagged for comments by media covering the courthouse.

Then CNN called. Would she provide commentary on the William Kennedy Smith rape trial? She did, and then came O.J. Simpson. She and Cossack, a Los Angeles lawyer, teamed to provide commentary and "Burden of Proof" was born.

It is now a top-rated show that repeats three times a day with guests discussing legal aspects of the news. When Princess Diana was killed in Paris, "Burden of Proof" explained the French legal system to its viewers.

Van Susteren doesn't rule out returning to the courtroom one day, but for now she says of TV: "It's fast, it's fun, and I love talking about the law."

"At my age of 43 I have two careers I'm crazy about," said Van Susteren. "So if someone pulls the rug out on one of

## BENCH BRIEFS

### LIZOTTE C. RBC DOMINION VALEURS MOBILIÈRES INC.

COUR SUPÉRIEURE DU QUÉBEC (CHAMBRE CIVILE), MORNEAU J.

LE 11 NOVEMBRE 1999 (251 PARAS) [1999 J.Q. NO 5012.

*In April 1990, Mr. Lizotte signed a contract giving him a one-third ownership of McNeil. The contract was valid until October 1995. McNeil recruited immigrant securities investors under a government program. On October 15, 1991, RBC Dominion Securities Inc., a subsidiary of the Royal Bank of Canada, acquired McNeil and in February 1992 curtailed its immigrant investors service. Lizotte sued RBC for \$5,200,000 in damages for ignoring his agreement with McNeil. He accused RBC of breaking his contract, dragging out a difficult situation, stalling operations and ruining his credibility in a market where trust and word of mouth are keys to success. RBC challenged the allegations, partly on the grounds that it had no partnership or other business agreement with Lizotte.*

**Held:** Action allowed in part, with costs. After concluding that the contract between McNeil and Lizotte was valid, the Court had to decide what to award Lizotte in monetary, non-monetary and moral damages. Even though Lizotte was obligated to do what he could to limit the damage caused to him, the Court held that, in 1992, Lizotte was too "burned out" to be able to go back into the job market. Consequently, he was awarded \$1,774,563 for loss of income. In non-monetary damages, he was granted \$120,000 for loss of his reputation, name and dignity and to cover moral damages. Lizotte was a man devoted to his cause and deserved respect from those with whom he dealt. Within a few months, RBC had ruined other people's trust in him, and in the same stroke, had destroyed Lizotte's reputation. Finally, RBC was ordered to pay Lizotte \$50,000 in exemplary damages, because for nearly seven years, RBC neglected all of its contractual obligations toward Lizotte and treated him with contempt. The Court ruled that RBC had tried to shrug off its responsibilities by deliberately setting up roadblocks to wear Lizotte out, if not force him to give up his case altogether.

them, I always can go back to the other."

Cochran, who successfully defended Simpson in his criminal trial, keeps up a frantic bicoastal schedule with his practice in Los Angeles, his show in New York and launching new businesses along the way.

His practice is far more lucrative than his TV show, he acknowledges, but with the show "Cochran & Co.," he says, "I have the best of both worlds and I'm not losing money. I'm just losing sleep."



## FEDERAL COURT OF CANADA - TRIAL DIVISION, MCGILLIS J.

OCTOBER 29, 1999 (34 PARAS.) [1999]  
F.C.J. NO. 1680.

*Jmakina and her son Maxim were from Kazakhstan. They entered Canada from the U.S. After dismissal of their refugee claims and other proceedings, they were deported to the U.S. They returned to Canada and again made unsuccessful refugee claims. Jmakina married a Canadian who applied to sponsor her and Maxim for landing. They applied for permanent residence. A removal order to the U.S. was issued. An officer refused Jmakina's request to defer the order. Jmakina and Maxim filed a motion to stay the order. They claimed that detention in the U.S. and separation from his new father would traumatize Maxim. They pointed out that they had the right to claim refugee status in Canada again after 90 days.*

*Held: Motion allowed. Further deportation to the U.S. was a useless exercise. Rather than implicitly condoning revolving door refugee claims, the Department should determine whether Jmakina's marriage was legitimate via the outstanding applications. There was a serious issue to be tried as to whether the decision not to defer the removal order was perverse, and Maxim would suffer irreparable harm if deported. It was not acceptable to severely prejudice a young child by deporting him in circumstances that made no sense. The balance of convenience favoured Jmakina and Maxim.*

## REYNOLDS V. TIMES NEWSPAPERS LTD. HOUSE OF LORDS OCTOBER 28, 1999

(162 PARAS.) [1999] H.L.J. NO. 45.

*In 1994, Reynolds resigned as Prime Minister of Ireland. The reasons for his resignation were of public interest in Britain due to his involvement in the Northern Ireland peace process. Days after the resignation, the Sunday Times published an article alleging that Reynolds had deliberately misled the Irish Parliament and Cabinet by withholding information. The article did not mention Reynolds' explanation. Reynolds brought an action against Times Newspapers for libel. The jury found that the defamatory allegation was not true and that the defence of justification thus*

*failed. It also found that the author of the article did not act maliciously. The trial judge ruled that Times was not entitled to a qualified privilege for political speech. He awarded Reynolds damages of one penny. Reynolds' appeal was allowed and a new trial was ordered on the ground that the trial judge had misdirected the jury. The Court of Appeal also ruled that Times could not rely on qualified privilege at the new trial. Times appealed to the House of Lords.*

*Held: Appeal dismissed. Political discussion was not a new category of qualified privilege. Such a development would not provide adequate protection for an individual's reputation. Moreover, it would be unsound in principle to distinguish political discussion from discussions of other matters of public concern. The newspaper's serious allegation, presented as a statement of fact but shorn of all mention of Reynolds' explanation, was not information the public had a right to know. This was not a publication that could be protected by privilege in the absence of proof of malice.*

## GERNHART V. CANADA

FEDERAL COURT OF APPEAL

NOVEMBER 1, 1999 (49 PARAS.) [1999]  
F.C.J. NO. 1669.

*Gernhart appealed the Minister of National Revenue's assessment of her tax return. Section 176(1) of the Income Tax Act required the Minister to transmit copies of all returns to the Tax Court, and s. 16 of the Tax Court of Canada Rules permitted any person to inspect any Court file. Gernhart applied for a declaration that s. 176(1) authorized an unreasonable search contrary to s. 8 of the Charter. The application was dismissed and Gernhart appealed. The Minister conceded that s. 176(1) did not serve any useful purpose.*

*Held: Appeal allowed. Section 176(1) was struck down in its entirety. The transfer of documents from the Minister to the Tax Court pursuant to s. 176(1) constituted an unreasonable seizure, contrary to s. 8. A seizure could occur even where no investigation took place. The section constituted a significant intrusion into privacy interests. It created the potential for any person to view a return. The section was not saved under s. 1 of the Charter. It did not address a sufficiently important objective to warrant overriding a Charter right. Given that the section did not pass the first branch of the Oakes test, the appropriate remedy was to strike the section down very broadly.*

## FROM THE HUMOUR FILE...

An attorney representing himself in a case for recovery of his own fees had his case dismissed because he failed to appear for a court hearing. Plaintiff subsequently filed a motion requesting relief from the judgment of dismissal based upon the theory that it wouldn't be fair to penalize the client for the mistake of his attorney. Defendants filed their opposition to the motion, which included the following excerpt: "Uniquely, Plaintiff herein, an attorney litigating in propria persona, is alleging that he has caused his client (himself) irreparable harm for which he should not be made to bear the mistakes of his attorney (also himself). Defendants, jokingly, have dubbed this the 'Sybil' defense." *Stein v. Willow Beach / Colorado River Recreation Association* (1995) Los Angeles County Municipal Court, Case No. SB94C02433



# what's newz

## New U.N. war crimes head urges Milosevic arrest

The head of the Yugoslavia war crimes tribunal pledged on Thursday to work tirelessly for the arrest of its most wanted men — Yugoslav President Slobodan Milosevic and former Bosnian Serb leader Radovan Karadzic. Milosevic was indicted in May for crimes against humanity stemming from atrocities against mainly Albanians in Kosovo during the campaign last spring that led to NATO bombing.

Former Bosnian Serb leader Radovan Karadzic and his army commander, Gen. Ratko Mladic, were charged in 1995 with genocide for allegedly commanding forces responsible for sniping and shelling campaigns in Sarajevo and for allegedly ordering the slaughter of at least 6,000 Muslims after the takeover of Srebrenica.

With no police force of its own, the tribunal relies on the Security Council to ensure the nations of the former Yugoslavia carry out its orders and obey its rulings.

## Class-Action Suit Reportedly Planned Vs Microsoft

NEW YORK (Reuters) - Lawyers say they will file a class-action lawsuit against Microsoft Corp. Monday on behalf of millions of Californians, The New York Times said.

It would be the first of what legal experts say could become a flood of private litigation stemming from the U.S. Justice Department's antitrust action against the software giant, the Times said.

The suit is to be filed by three longtime class-action lawyers, and will accuse Microsoft of using its monopoly in operating systems software to overcharge buyers of Windows 95 and Windows 98, the paper said.

Judge Thomas Penfield Jackson's findings in the Justice Department case provide a good starting point for the class-action suit, Gross told the Times.

The complaint does not estimate the financial impact to Windows users, but the lawyers are seeking triple damages if the suit leads to an eventual finding of financial harm, the Times said.

## S. Africa Proposes Strict Gun Laws

By Mike Cohen Associated Press Writer Thursday

CAPE TOWN, South Africa -- Settling arguments with a bullet has become a way of life in trigger-happy South Africa, and the government hopes a tough new gun law it proposed Thursday will help solve the problem.

Parliament is set to approve the proposal when it meets next year, but the bill has sparked debate.

South Africa is awash with guns, many smuggled in toward the end of apartheid by anti-apartheid fighters,

others distributed by the white minority's government to foster black-against-black conflicts. Last year, guns were involved in 12,298 deaths, nearly half of all murders committed.

In a population of 42 million, South Africans carry about 3.5 million licensed weapons, while estimates of the number of illegal firearms in circulation range from 500,000 to 4 million. Police and other licensed gun carriers are often robbed and even killed for their weapons.

Under the proposed law, gun owners would have to re-license their weapons every five years. Jail sentences of up to 25 years for illegal possession could be given. Police would have greater powers to fingerprint suspected illegal weapons owners and to perform ballistics tests on guns thought to have been used in crimes.

## Germans Make Final Nazi Labor Offer

By Burt Herman Associated Press

BONN, Germany -- After raising its offer this week, a spokesman for German industry said today it would not come up with any more money to compensate Nazi-era slave and forced laborers.

Two days of negotiations on the fund wrapped up Wednesday in Bonn with the sides closer but still without agreement.

Germany offered \$4.2 billion in compensation — an increase from its earlier \$3.2 billion offer — and numbers of up to \$5.3 billion were discussed.

The higher figure touches the lower range of the newly reduced demands of victims' lawyers for between \$5.3 billion and \$7.9 billion, and there had been optimism that an agreement might be reached.

A German Jewish leader, Michel Friedman, criticized the delay and blamed German industry for "unbearable and incomprehensible" behavior.

Lambsdorff said the current \$4.2 billion offer would be made up of \$1.6 billion from government and the rest from industry.

Fagan said the lawyers drastically reduced their demands because some of the groups representing laborers — which include Eastern European governments, Israel and Jewish groups — had shown a willingness to accept a smaller offer.

About 50 firms, including 18 that have publicly stated their support, have signed on to contribute to the fund, which aims to compensate about 1.5 million to 2.3 million victims.

The victims include about 235,000 slave laborers, or people who were expected to be worked to death in concentration camps, and hundreds of thousands of other forced laborers, mostly non-Jews from Eastern Europe.

Although Germany has already made about \$60 billion in payments, pensions and other programs for war crimes, there has never been compensation for the estimated 12 million people put to work to help Nazi Germany's war effort.



# Perfect Overruled Continue to Dominate!

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LE FAN (ERIC GILMAN) BCL II

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I have been too busy watching Overruled win and have had no time for a submission to tell you that the Men's D hockey team is the faculty's dark horse. With new additions and some selective drafting – maybe the Canadiens should take some pointers – the team that barely eked out a win last season, is the pride of the league. The sparse handful of fans that have come to watch Overruled's games have been treated to suffocating defense, spurts of exciting offense, and masterful goaltending. Captain Jan Pleszczynski has watched and led his team to a perfect 7-0 record as it reached its mid-season break.

Last year's leaders – Warren "clean lungs" Silversmith, Phillipe "the Man"

Gougeon, and Captain Jan – have returned in fine form. The sophomores – Sean "Skates" Wolson, Pierre-Etienne "Six Morts" Simard, Eric "Offside" Gilman, Chris "Bruiser" Forrest – have found their stride and have helped turn the Men's D team into a feared force. Even the rookies (most notably, Alan "Sweetness" Suen, and Jean-Francois "Romeo" Peyronnard) are refusing to be outdone. The final nail in the coffin for their opposition is the addition of our quotidian first star, goalie Paul "Sawchuck" St. Pierre Plamondon – with a goals against average of an almost ridiculous, 0.71!

Last week's 4-2 win brings their lead-leading record to seven wins (4-0; 3-1; 17-2; 5-

0; 4-0; 3-0; 4-2). Overruled remains untested. Highlights thus far are Silversmith's end-to-end goals (despite his tendency to occupy the penalty box), rightwinger Gilman's fierce physical play in the corners and three game-winning goals, Simard's clinics on skating and puck control, Peyronnard's two awe-inspiring goals. Rumour has it that even their ever-sexy coach Alex Otis is being pursued by a few professional clubs – but refuses to comment due to prior commitments to an unnamed law firm.

So after you are all "Yuletided-out" and return to the faculty in January come cheer on the pride of the faculty as they try to once again prove to ever-cynical defenceman Silversmith that they really don't suck!

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## thoughts on December 6 con...

But most of all, I remember feeling scared as hell. School, that safe, secure place that I had theretofore spent all my life in, was the kind of place where women could be shot. And students just like me were the kind of women that violence happened to. I am ashamed to admit it, but it took hearing about someone just like me murdered because she was a woman to make me realize that gender inequality did apply to me.

Within a day of the murders in Montreal, other kids in residence (men and women) were already talking about how the "feminists" were making a big deal out of this whole thing. My boyfriend at the time thought it was really too much that "feminists" wanted to have a women-only vigil. The media talked incessantly about the perpetrator and his sad pathetic life and wondered what terrible thing could have driven him to kill these women. "Apparently," the media said, "he hated feminists."

And for the first time, I realized I was with the feminists. I wanted to scream and cry and yell and tell these stupid people that fourteen women being shot was a huge deal. I wanted to shake the other women at the cafeteria table and tell them "that could have been you.... DON'T YOU GET IT?"

Since that day I have clued in to a few things. I realize I am not safe all the time. But I did not scare away all the boys and I have a partner who is supportive and reads my feminist legal theory text on occasion. I also now have several friends — women just like me in many ways — who have admitted to me that they have been either beaten by their partners or date-raped by acquaintances. I have been in a room with three other women friends and realized that I was the only one in the room that had not been sexually abused as a child. I have also clued into the fact that being a lawyer and woman isn't going to be easy, and that it will probably only be through exploiting another woman (a nanny) that I will ever be able to be both a lawyer and a mother.

But most of all, I have clued into the fact that feminists don't always make a lot of noise, but that I am one, and that it is central to the way I look at the world, and that sometimes you have to yell to be heard.

December 6th 1999 will be a very emotional day for me. I will remember these women, and I will remember many other women who have been victims of violence because they are women. On December 6th 1999, I will yell.



# Bilan de la librairie & Farewell from the Manager

PATRICK CORMIER BCL III

Comme vous le savez déjà, j'ai décidé le 17 octobre de tirer ma révérence en tant que gérant de la librairie. J'ai publié ma lettre de démission à:

<http://www.law.mcgill.ca/bookstore/resignation.pdf>

En vous écrivant une dernière fois en tant que gérant de la librairie, je profite de l'occasion pour donner l'heure juste.

En septembre 1997, les 3<sup>e</sup> et 4<sup>e</sup> années s'en souviendront, la librairie ne disposait pas de catalogue. Il y avait seulement quelques feuilles collées sur les murs, mises à jour de temps en temps à la main, et nous avions beaucoup de difficultés à "déchiffrer" ces feuilles afin de comprendre ce qu'il fallait commander. À l'époque, j'avais offert à la gérante, Victoria Netten, de préparer un "catalogue" pour les 1<sup>ères</sup> années à partir des plans de cours des professeurs et chargés de cours, d'où les feuilles beaucoup plus détaillées par la suite.

Ensuite, j'ai préparé un plan de redressement. Pendant la crise du verglas, en janvier 1998, je commençais déjà à faire le design de la future base de données pour la librairie sous la lumière d'une lampe à huile (Delphine pensait que j'étais devenu fou!).

Therefore, November 1999 marks my 23<sup>rd</sup> month with the bookstore, and my 19<sup>th</sup> month as manager. When I started out, I had several objectives, and they basically boiled down to "fixing the bookstore".

Fixing the Law Bookstore has been quite a challenge, and at times I found that (a) running the bookstore and (b) being a full-time Law student was more stressful than being a troop commander! For example, on our busiest day this semester (September 1<sup>st</sup>), we had 221 customers and sold 612 items for a total of over \$29,900. To date, for the first semester only, we have had 2297 customers, sold 4657 items for a total of over \$218,100 (\$209,200 after GST). Over 90% of our sales are now completed with debit and credit cards ("plastic" currency was accepted at the Bookstore starting last year).

I am glad to report that "fixing the Law Bookstore", as I understood it, is now over. I truly believe that all the problems I set out to solve have been taken care of. If you want to have an idea of the range and scope of these problems, please take a few minutes to read my resignation letter.

However, I want more than just to fix our Bookstore and walk away. For a solution to stick, I have to make sure that the necessary structure is in place to sustain any subsequent decent efforts by the next staff. No structural solution can guarantee success, as a (student) business is made up both of a *structure* and of *people*. It will be up to the LSA and, more specifically, to the Vice-President for External Affairs, to ensure that the right people staff the Bookstore. But I want to make sure that the right structure is there to sustain future efforts.

Après y avoir pensé pendant quelques mois, j'en suis arrivé à la conclusion que la seule façon "réaliste" de m'assurer que la librairie soit dotée de la meilleure structure possible était de me retirer en second plan afin d'assister un nouveau gérant.

En effet, j'ai remarqué au cours des derniers mois un curieux (et malencontreux) "effet de confiance", à moins qu'il ne s'agisse d'un désintéressement progressif de la part des étudiants. Mis à part les deux premières semaines, j'ai eu très peu de bénévoles. Une interprétation charitable de cette tendance veut que "on a confiance en Patrick pour que ça marche". Je suppose qu'il y a aussi des interprétations plus inquiétantes, par ex.: "on en a marre de la librairie et de ses histoires de bénévoles" (mais pourquoi avoir voté massivement en faveur de la librairie en mars 1999?!), ou "Chapters devrait s'occuper de tout ça" (mais... tenez-vous à payer 100% plus cher pour les recueils, et de priver d'AÉD d'une source de revenus importante?), etc.

Considérant que j'ai atteint les objectifs fixés, il est approprié que je remette ma démission afin que je puisse me concentrer sur la finition de la base de données et du système d'aide intégré. Ainsi, il n'est certainement pas question que "je lâche la librairie", en fait, je crois bien l'avoir "tenu" plus longtemps qu'il quiconque depuis sa création en 1981, et ce, gratis; et j'entraînerai au cours des prochains mois le prochain gérant afin qu'il y ait continuité.

J'apporte cette précision, puisque j'ai été très déçu d'entendre que certaines personnes, dont un membre de l'AÉD à un professeur, que je "lâchais la librairie en plein milieu de l'année". Décevant, considérant que plusieurs de ces personnes n'ont même pas donné cinq minutes en tant que bénévole à la librairie; et considérant que je continue depuis la remise de ma lettre à m'occuper de la librairie et à préparer la deuxième session.

I like to fix problems - and the Bookstore is now fixed. Time to move on. I believe that giving one month's notice, and accepting to stay a further two weeks, is reasonable and provides enough time for the LSA to find the next manager, especially that it is now a paying job, pro-rated (part-time) \$30,000 per year. The LSA should also consider other solutions: as Stéphanie Rainville once put it to me, maybe a better solution lies in "teams (2-5) of students volunteering as a group" to take over the operations of the bookstore, either for the remainder of the year or just for a few months, to give more time to the LSA to find a replacement. If you think that you would like to be this team, please see François Tanguay-Renaud...

Je tiens en passant à remercier du fond du coeur les bénévoles "réguliers" de la librairie (et je m'excuse sincèrement si j'en oublie!!), depuis l'an passé: Axel Bernabé (toujours souriant), Carolina Mingarelli (ah... Noël 1998 dans les boîtes...!), Jeff Nichols; et pour l'année dernière, Mike Kandeve, Susan Ryan, Geneviève Bourbonnais, Alejandro Manevitch, Shahina Mapara, Ivana Gotzeva, Annie Le, Katherine Poirier, Paul St-Pierre-Plamondon, Saklaine Hedaraly, Danielle Miller. Si je vous ai oublié, il faut me pardonner je commence à être un peu vieux...

Je remercie aussi des gens qui, malgré le fait qu'il soit sur l'exécutif de l'AÉD (comme Elizabeth Drent, Allen Mendelsohn et Marie-Claire Leman), ou malgré le fait qu'il occupe une tâche très accaparante (e.g. rédacteur-en-chef de la revue de droit - Azim Hussain), ont trouvé le temps malgré tout pour venir nous aider. Et, plus que tout, merci à Delphine pour avoir été une bénévole assidue l'an passé, et une fantastique assistante-gérante cette année!



## Between a rock and a hard face

ERIC WARD LLB III

At last week's methodology tutorial for 2<sup>nd</sup> year students, a student with a disability was made to feel that she was a burden. She felt blamed for a situation that was not her fault.

A large portable chalkboard had been moved from the moot court into the back of the classroom. When our friend tried to drive her motorized wheelchair into its regular position, it became wedged between the fixed seats and the chalkboard, blocking the back aisle. With no way backward or forward, the student hoisted herself out of the wheelchair and into a seat.

Other students began to fill the room. Many wanted to access the side of the class that was blocked by the wheelchair and blackboard. Some became frustrated that they would have to walk the long way around the classroom. Several directed their annoyance at our friend for parking her wheelchair in their way. A few made sharp comments. Our friend was hurt and incredulous: couldn't her colleagues see that she was stuck? Couldn't they see that she had far more reason to be annoyed than they did?

The scene should have unfolded differently. The able-bodied students were rightly annoyed that their access to the classroom was blocked. But this should have reminded us of how wearing it is for people with disabilities to encounter dozens of such barriers in the course of every day. Any annoyance should have been directed at the decision to place the blackboard in an aisle without thinking of wheelchairs. Students should have asked our friend if she would like help in freeing her wheelchair. Eventually this is what some thoughtful students did – but not before some others made a woman with a physical disability feel as if *she* was the problem, as if *she* were a barrier for others at the faculty.

Access to educational facilities for persons with disabilities is a right. It is not an indulgence to be grudgingly provided. This faculty is not easy to navigate without the use of legs. Wheelchairs are often obstructed by chairs and us pedestrians in the pit, in the labs, in the cafeteria, in classes in the halls. Some improvements have been made in the physical layout of the school. But physically

disabled students are still stuck in the back of the class.

Ramps and handrails are useful, but they do not by themselves make the environment welcoming for people with disabilities. The incident last week suggests that there is room for improvement in our attitudes. It is not enough to tolerate people with disabilities as long as they don't inconvenience us able bodied persons. We must learn to see the barriers to access and help to remove them. It is o.k. to ask people with disabilities about this.

Why do I write this note? Could not a person with a physical disability write with more insight and authority? Of course. But it is not their job to be full-time sensitivity trainers. It is not their job to cajole able bodied people into respecting their rights. It is not right that people with disabilities only get results by nagging about the thousand little barriers that are placed in their way. Besides, this is the Quid: if I have got something wrong there will be no shortage of writers to tell me so.

We able bodied people should think on our feet.

The McGill Law Journal is pleased to announce a donation to the Library of a largenumber of books. The topics of these books range from legislation to jurisprudence. It is hoped that all the students of the faculty willbenefit from this modest contribution to the holdings of the Library.



# Taking It On the Chin:

CONTINUED FROM PAGE 1

The name Tory Haythe is hazily familiar to a number of us because they sponsored our last free Coffee Haus (recently reviewed in the *Quid*). That brings me to my other point. The incident occurred during what The Globe and Mail characterized as "a night on the town in Toronto." Unless Tory's took a sharp turn from the general legal culture in planning its celebration, there was a lot of booze flowing. This is nothing specific about Tory's. In general, the big firms drink a lot. They sponsor events here so we can drink a lot.

That's all fine. Let's just acknowledge that the probability of an incident of sexual harassment is higher when a lot of gin, scotch and wine is going round in an office crowd. I don't mean to say that senior employees don't harass more junior employees in the office, stone cold sober. But an after-hours celebration sure increases the odds. Everyone's reactions are a little slower. It may take everyone a little longer to realize when a line has been crossed - after all, a higher level of flirtation passes in a bar at midnight than in the boardroom. A junior employee who would have no problem telling a contemporary where to go if he got out of hand at a party may feel a lot less comfortable telling the founding partner the same thing.

People who commit sexual harassment are clearly responsible and shouldn't do it. The alcohol present isn't an excuse. But what does it take for companies to realize how much all the free booze increases the chances that something is going to go wrong? There may not be data on this that proves the link between alcohol and harassment; perhaps it's just a correlative link (after all, the Supreme Court wasn't satisfied there was causation between tobacco advertising and smoking in *RJR-MacDonald*). But boozefests certainly don't reduce the likelihood of problems.

I'm sure there are problems with alcohol in many businesses, but law seems particularly bad. Maybe it's the work hard-play hard idea: pull allnighters to close the deal, then drink yourself silly. Coffee Haus is

comparatively harmless: there isn't an equivalent power differential between classmates as between lawyers at a big, hierarchical firm, and even the pros who join us for a plastic cup or two of beer have less impact on our futures than senior partners do on juniors.

I want to emphasize that this whole thing is not specifically a Tory's problem. It's one that we as, heaven help us, the future of the legal profession, might want to think about.

## 10 years after

CONTINUED FROM PAGE 1

A year ago at this time, Women and the Law organized a memorial campaign in the lobby outside the Moot Court. It was a simple display, some candles on a table, a black and white photo of each of the 14 women taped to the table's edge. Each day as I looked at the photos, they took on more and more of the characteristics of the young women milling about the lobby waiting for the start of their afternoon law classes. I couldn't help but wonder what those murdered engineering students had thought about in those last minutes, facing off with their killer. And I couldn't help but wonder, myself now a student at another professional school, about the safety we normally take for granted.

Last year was the first I did not attend a public memorial service on December 6 for the 14 women. I wanted to, but despite scouring a week's worth of newspapers and the 578 web documents devoted to the Montreal Massacre, I could find nothing organized for the entire community save one small church service. McGill and Concordia had organized events for the student population in the week leading up to the sombre anniversary,

and the Université de Montréal held a private service for the friends, families and colleagues of those killed, but these are not the same as a public catharsis. I confess to being perplexed by the reaction of Montreal

as a whole. There were dozens of happy pre-Christmas events scheduled for the 6th, but no memorials.

My friends in Yellowknife will once again this year pack into the Grand Hall of the Northwest Territories Legislature for a commemorative service, but I will not be with them. I am deeply saddened by the irony. Montreal is a city in denial. It is as if by not acknowledging this tragedy, we need not examine its impact, resonance, or aftermath. Many of the web documents and newspaper articles of the time refer to the shooter as a madman, crazed with rage and hatred.

This is a mistake, I think. It makes it easier for us to think this can't happen again instead of taking the rage that underlies so much of our culture's violence to heart. Events in far too many schools across North America over the past few years have shown us this violence will keep occurring as long as we dismiss it as the random act of a disturbed

individual, and choose to ignore the everyday brutalities that incrementally wear down our humanity and push some people to the wall.

Last fall, Montreal's city administration finally announced it would fund a permanent memorial to the Ecole Polytechnique women, in a quiet park near the campus. I hope it will be a place where we can all go to remember, not just on December 6, but throughout the year. Perhaps then, in our small ways, the healing can begin.

And we remember:

Geneviève Bergeron, 21  
Hélène Colgan, 23  
Nathalie Croteau, 23  
Barbara Daigneault, 22  
Anne-Marie Edward, 21  
Maud Haviernick, 29  
Barbara Maria Klueznick, 31  
Maryse Laganière, 25  
Maryse Leclair, 23  
Anne-Marie Lemay, 27  
Sonia Pelletier, 23  
Michèle Richard, 21  
Annie St-Arneault, 23  
Annie Turcotte, 21